



Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Brian Binzer, Director

STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2012-40

Legistar #: 20120902

City Council Hearing: Wednesday, November 14, 2012 – 7:00 p.m. *

Property Owner: Dustin Farthing
Mountain Motorsports, LLC
780 Cobb Parkway South
Marietta, GA 30060

Applicant: same

Address: 780 Cobb Parkway South

Land Lot: 05730 District: 17 Parcel: 0070

Council Ward: 1 Existing Zoning: CRC (Community Retail Commercial)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to reduce the required number of street trees from 5 to 3.

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



780 Cobb Parkway South



Landscape strip at 780 Cobb Parkway South

Recommended Action:

Dustin Farthing, owner of Mountain Motorsports, is requesting a variance for the property at 780 Cobb Parkway South. The subject property is approximately 2.13 acres in area and is zoned CRC (Community Retail Commercial). All of the surrounding properties on both sides of Cobb Parkway are also zoned CRC.

Plans for the redevelopment of the site at 780 Cobb Parkway South were originally submitted in February 2011. The plans indicated that the former Red Lobster restaurant would be partially demolished and redeveloped for Mountain Motorsports, an outdoor vehicle sales business. Development plans that were approved included a landscape plan that met the requirements for street trees and tree density based on disturbed area only, as required by the zoning regulations. However, the property owner provided an appraisal indicating that construction cost for the demolition and construction of the new development would be less than 50% of the replacement cost of the existing building, thereby exempting the entire site from tree density regulations and also allowing the nonconforming sign to remain.

Work on the site continued throughout 2011 and into Spring 2012. As the development was nearing completion, staff noted during an inspection that only three of the required five street trees had been planted within the 10 foot landscape strip along Cobb Parkway, as required by the tree ordinance. The superintendent on site stated that, at the request of the owner, the two trees had been relocated to an already heavily planted landscape area to the rear of the property. On May 15, 2012, Mr. Farthing submitted a letter requesting a Certificate of Occupancy, and agreed to install the two required street trees by no later than August 13, 2012. Staff consented to release the Certificate of Occupancy with that assurance from Mr. Farthing.

On August 16, 2012, staff notified Mr. Farthing by email that the two remaining street trees had still not been planted. Mr. Farthing responded by email that he wanted to “keep the front of our building clear of the road view”, and stated that they would be submitting a variance application the following day. On September 7, 2012, staff had still not received an application for a variance, so Mr. Farthing was placed on notice by Code Enforcement. The variance application from Mountain Motorsports was received in the Planning & Zoning office on September 11, 2012.

According to the application, the request is to allow two street trees (Nuttall Oak trees) to be planted elsewhere on the site instead of within the required 10 foot landscape strip along Cobb Parkway. The application states that these trees had to be moved “due to the front 2 being under power lines.” However, the other three trees that have already been planted within the landscape strip do not conflict with the power lines, as shown in the attached pictures. Further, the same landscape plan approved for construction and submitted with the variance included a note stating “[Street] trees placed outside R/W – no overhead conflicts.”

It should also be noted that the landscaped strip area where the two trees should be planted is currently being used for vehicle display in a grassed area; which is a violation of the code which requires vehicles to be parked or stored on a paved surface. Code Enforcement is currently working with the property owner on this issue.



Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Brian Binzer, Director

**On October 10, 2012, this case was heard by City Council at their regular meeting. After discussion, City Council tabled the item until the November 14, 2012 meeting in order to allow the City's arborist to review the plan.*